

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

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IN RE: DEALER MANAGEMENT SYSTEMS  
ANTITRUST LITIGATION

MDL No. 2817  
Case No. 18 C 864

This Document Relates to All Cases

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**CUNEO GILBERT & LADUCA LLP'S SUPPLEMENTAL SUBMISSION**

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Yesterday, a new dealership complaint, attached as Ex. A, for the Court's reference, was filed on behalf of Apex Motor Co. d/b/a Shearer Acura ("Shearer Acura"), by Cuneo Gilbert & LaDuca, LLP ("CGL"), Clifford Law Offices, P.C. ("Clifford Law") and Langrock Sperry & Wool LLP.

**A. The Dealership and Firms in the New Dealership Complaint Support CGL as Co-Lead Counsel for the MDL**

Shearer Acura supports CGL's request to be appointed Co-Lead counsel for the MDL, to protect dealership interests. Clifford Law also supports CGL as Co-Lead counsel for the MDL. Langrock Sperry and Wool, who has represented numerous rooftops in the Shearer Automotive Group for over a decade, in a variety of matters, likewise supports CGL's appointment as Co-Lead counsel for the MDL.

Given the new situation on the ground at the time this complaint was filed, CGL explains its qualifications for MDL Co-Lead Counsel, supported by this dealership and the law firms identified on the complaint.

**B. CGL is Uniquely Qualified to Serve as MDL Co-Lead Counsel**

CGL is the only law firm applying for the MDL Co-Lead Counsel position who has the support not just of dealer representatives, but of actual dealers, around the country, based on

CGL's work representing dealerships.<sup>1</sup> CGL is the only firm on whose behalf dealerships have submitted letters urging the Court to appoint it to a lead counsel position, to continue representing dealership interests, as it has been doing for the past six years. CGL has been working with Dealer Management Systems since 2015 and has spearheaded data extractions—the topic of this litigation—from dozens of dealers' systems, including CDK and Reynolds systems.

CGL has expended tens of thousands of hours working for dealerships. Ms. Romanenko alone spent over 20,000 hours on dealer work in the *Automotive Parts Antitrust Litig.*, No. 12-md-02311 (E.D. Mich.), and has been the attorney in charge of managing data extractions, producing data and explaining the data collection process to the dealers and defendants in the case.

CGL has also expended hundreds of thousands of dollars in expenses on representing dealers in the *Automotive Parts Litigation*, which involves over 70 defendant families located around the world and thousands of dealer rooftops across the country, giving rise to considerable travel, translation and discovery expenses.

Ms. Romanenko and her colleagues at CGL understand how the reporting functions in CDK and R&R systems (i.e. Dynamic Reporting) operate, what functions vendor applications perform and why they are necessary, what it takes to change DMSes and what system security issues do and do not exist.

The existing knowledge of dealer management systems and dealership operations that CGL brings to this litigation is crucial, because, if certain dealer discovery is frontloaded to

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<sup>1</sup> CGL seeks the appointment of Jonathan Cuneo and Victoria Romanenko.

accommodate Defendants' concerns regarding burden and Authenticom's need to proceed to trial, mentioned by the Court at the most recent hearing, Dealership Co-Lead counsel for the MDL must be in a position to move quickly to commence discovery in the Dealer action in an informed manner, with a full understanding of the mechanics of DMS operations and data pushing.

Given that dealers need special protections, as parties with interests that diverge from those of the individual litigants<sup>2</sup> CGL is uniquely qualified to be the dealer representative in the MDL co-lead structure.

CGL has already been successfully representing diverging dealer interests in this action. For instance, the protective orders entered in the individual actions prior to consolidation, that certain parties wished to use in the Dealership action, did not provide sufficient protections for the most sensitive consumer data that dealers possess. CGL inserted protections into the order ultimately submitted to the Court to make certain that the dealers, who are consumer-facing businesses, received the protection they needed, and successfully negotiated retroactive application of the new protective order.

Since submitting its application for co-lead counsel, CGL not only took the lead on drafting a position statement regarding open issues in the protective order, in the event the parties did not reach agreement, but it also continued to communicate with Defendants and other plaintiffs' counsel, on filing day, regarding the outstanding issues, until the parties were able to reach full agreement and avoid submitting competing drafts to the Court. *See* Ex. B. Even since

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<sup>2</sup> "The responsibility of class counsel to absent class members whose control over their attorneys is limited does not permit even the appearance of divided loyalties of counsel." *Sullivan v. Chase Inv. Servs. of Boston, Inc.*, 79 F.R.D. 246, 258 (N.D. Cal. 1978).

last week's hearing, CGL has continued its work on behalf of the Dealerships. CGL plans to cover the upcoming 30(b)(6) deposition regarding Authenticom's financial condition, that will likely take place next week.

**C. CGL Has Successfully Worked with Professor Issacharoff in Other Actions Over Many Years**

CGL is prepared to work with Professor Issacharoff, as well as Mr. Ho in this Litigation. Professor Issacharoff has consulted with CGL in numerous cases over more than 15 years, and CGL has established a positive working relationship with him.

As one example, Professor Issacharoff successfully advised CGL, in the same role he envisions in this case, in *Galanti v. Goodyear Tire and Rubber Co.*<sup>3</sup>, which resulted in a \$340-plus million dollar bi-national settlement.

Dated: April 13, 2018

/s/ Victoria Romanenko

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<sup>3</sup> No. 03-cv-209 (D.N.J.).

**CERTIFICATE OF SERVICE**

I, Victoria Romanenko, an attorney, hereby certify that on April 13, 2018, I caused a true and correct copy of the foregoing **SUPPLEMENTAL SUBMISSION**, to be filed and served electronically via the court's CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

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